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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,412	04/10/2007	Riccardo Palumbo	D-43749-01	8362
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CRYOVAC, INC. SEALED AIR CORP P.O. BOX 464 DUNCAN, SC 29334				
EXAMINER				
KRUER, STEFAN				
ART UNIT		PAPER NUMBER		
3654				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/588,412

**Applicant(s)**

PALUMBO, RICCARDO

**Examiner**

Stefan Krueer

**Art Unit**

3654

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 33 - 45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 33 - 45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

**Claims 33 - 45**, previously only rejected under 35 U.S.C. 101 per the previous office action mailed 23 December 2008, are herein rejected over prior art of record.

### ***Terminal Disclaimer***

The terminal disclaimer filed on 16 March 2009 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent No. 7,493,740 (Application No. 10529379) has been reviewed and was accepted on 25 March 2009. The terminal disclaimer has been recorded.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 37 - 39** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Claim 39** recites the limitation "it", wherein it is unclear to what "it" refers.

Re: **Claim 37**, the term "satellite pinion gear" is indefinite because the specification does not clearly define the term and there is neither an accepted meaning for this term nor can the term be found in textbook or dictionary.

Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). All claims should be revised carefully to correct all other deficiencies similar to the ones noted above.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 33 – 34 and 39** are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neill (4,796,412) in view of view of Soubeyrand et al (FR 2581633).

Re: **Claims 33 – 34**, O'Neill discloses a spool assembly for winding-up two adhesive carrier tapes (3, 4) of a packaging taped bag chain (2a – 2c) in an apparatus for taking up succession of packaging bags, the spool assembly (5 – 23) comprising:

- At least two spools (8, 9), wherein each spool comprises a core with a core surface (understood, for feature of affording a "drive dog" (11, 12) respective of each spool for common drive by a "differential drive");
- wherein the spool assembly comprises a differential gear unit (16 - 20) positioned between said spools, said differential gear unit removably connectable to a shaft (15, via disassembly) of a bag loader whereby the at least two carrier tapes can be wound up on said spools with equal tension (Col. 2, L. 35); and
- wherein said *spool assembly* is contained in a housing (10, 13); however,

O'Neill is silent with respect to said core of each spool comprising walls forming a race as well as said core of each spool comprising resilient means for releasing radial pressure acting on the turns of said tape.

Attention is directed to Soubeyrand et al who teach their resilient means (7, Fig. 5) for releasing a radial pressure on turn of tape (4) for features of promoting releasability of said tape during unwinding as well as minimizing a telescoping of said tape during winding or upon the conclusion of winding (Page 3, L. 13 - 21).

It would have been obvious to one of ordinary skill in the art to modify the reference of O'Neill with the teaching of Soubeyrand et al to insure a proper winding of a material for quality control and production efficiencies.

However, Soubeyrand et al are silent with respect to their core (2) comprising walls forming a race.

Though O'Neill and Soubeyrand et al are silent with respect to a core of their respective spool comprising walls forming a race, such is well known in the art to maintain a tape along a desired plane of movement during winding/unwinding as well as protection of said tape.

Therefore, it would have been obvious to one having ordinary skill in the art to provide walls forming a race on the spool of O'Neill as modified by Soubeyrand et al for guiding and maintaining a tape in a desired plane of winding/unwinding for operating efficiency and quality control.

Re: **Claim 39**, O'Neill discloses wherein said spool assembly is contained in a housing (10, 13).

**Claims 35 – 38 and 40 - 44** are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neill (4,796,412) in view of view of Soubeyrand et al (FR 2581633) and in further view of Osborne (GB 2,064,477 A).

Re: **Claims 35 and 40**, O'Neill discloses each of their spools has a recess (for accepting respectively 11 and 12) in a surface and the prior art of placing a differential gear intermediate two coaxial spools (Col. 1, L. 36 - 49); however, O'Neill is silent with respect to his recess faces an other of said spools.

Soubeyrand et al teach their spool having a recess; however, Soubeyrand et al are silent with respect to an assembly of at least two or more spools.

Attention is directed to Osborne as reviewed by O'Neill who teaches an apparatus for taking bags carried by a pair of carrier tapes (3, 5, Fig. 2), two carrier tape winding spools (11, 13) positioned coaxially with one another and a differential gear unit

(17, Pg. 1, L. 71) positioned between said spools, said differential gear unit provided to wind the tapes with equal tension (Pg. 1, L. 35 – 43).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of O'Neill and Soubeyrand et al with the teaching of Osborne to position the spools coaxially and placing the differential system between the spools to as an alternative arrangement for placing or rearranging the parts to provide equal tension to the tapes. Furthermore, it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

Re: **Claims 36, 41 – 42 and 45**, O'Neill discloses each spool having a recess where the differential gear unit 13 (using 11 and 12) is positioned in the recesses; however, O'Neill is silent with respect to his recess faces an other of said spools.

Soubeyrand et al teach their spool having a recess; however, Soubeyrand et al are silent with respect to an assembly of at least two or more spools.

Attention is directed to Osborne who teaches his spools as co-axially mounted and a differential gear positioned intermediate said spools, wherein a recess of a surface of one of said spools faces the recess of a surface of the other said spools, whereby a bevel gear (16, 21) of O'Neill would be formed integrally with his spools (8, 9, respectively).

It would have been obvious to one of ordinary skill in the art to modify the invention of O'Neill and Soubeyrand et al with the teachings of Osborne to provide an alternative arrangement wherein the spools are attached independently to the assembly, yet maintaining equal tension to said tapes, for preference of tapes requiring ancillary (external) treatment during winding.

Re: **Claims 37 and 43**, O'Neill discloses wherein said differential gear unit comprises a core (area bordered by bevel gears 14, 16 and 21 – 22) and at least one "satellite pinion gear" (17, 18, Col. 25 – 26, "... orbiting around the horizontal common axis...") attached to said core and positioned to mesh with each bevel gear.

Re: **Claims 38 and 44**, O'Neill discloses the differential gear unit (13) comprises a mating hole (to accept 14) for mating with a shaft (drive of 15) of a bag holder.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Carson et al (US 20020130058 A1), Fiorentino et al (3,295,778), Rengo (2,494,106), Ripplin (4,421,283), Yokoe (4,739,945), Vincent (5,354,012) and Carlson (3,737,028) are cited for references of apparatuses and elements of relevance to features of the instant invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Kruer whose telephone number is 571.272.5913. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Q. Nguyen, can be reached on 571.272.6952. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866.217.9197 (toll-free).

/Stefan Kruer/  
Examiner, Art Unit 3654  
29 May 2009

/John Q. Nguyen/  
Supervisory Patent Examiner, Art Unit 3654